UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

BROWSE3D LLC, Plaintiff v. **MACY'S, INC.,** Defendant	**Case No. 6:20-cv-00058** **JURY TRIAL DEMANDED**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Brwose3D LLC ("Browse3D" or "Plaintiff") files this Complaint for patent infringement against Defendant Macy's, Inc. ("Macy's" or "Defendant"), and alleges as follows:

NATURE OF THE ACTION

1.   This is an action for patent infringement arising under 35 U.S.C. § 1 *et seq*.

PARTIES

2.   Browse3D is a limited liability company organized and existing under the laws of the State of Texas with its principal place of business 108 Wild Basin Rd South, Suite 250, Austin, Texas 78746.

3.   Defendant is a corporation organized and existing under the laws of Delaware with corporate address of 151 West 34th St., New York, NY 10001.

JURISDICTION AND VENUE

4.   This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5.   Upon information and belief, Defendant is subject to personal jurisdiction of this Court based upon it having regularly conducted business, including the acts complained of herein, within the State of Texas and this judicial district and/or deriving substantial revenue from goods and services provided to individuals in Texas and in this District.

6.   Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because Defendants have committed acts of infringement and have regular and established places of business in this judicial district.

COUNT I
(Infringement of U.S. Patent No. 10,031,897)

7.   Browse3D incorporates paragraphs 1 through 6 as though fully set forth herein.

8.   Plaintiff is the owner, by assignment, of U.S. Patent No. 10,031,897 (the "'897 Patent"), entitled SYSTEM AND METHOD FOR WEB BROWSING, which issued on July 24, 2018. A copy of the '897 Patent is attached as Exhibit A.

9.   The '897 Patent is valid, enforceable, and was duly issued in full compliance with Title 35 of the United States Code.

10.   Defendant hosts and provides an interactive website at https://www.macys.com/ for advertising and promoting the sale of items to users of the website. In use, Defendant tracts user behavior when interacting with the website, including selection of individual hyperlinks. Defendant uses the user behavior information to customize the rendering of webpages to present information to the user. The Defendant's system for hosting and operating the website is the Accused Instrumentality that infringes the '897 Patent.

11.   At least by hosting, promoting, and publishing the website, Defendant encourages its customers, potential customers, and users of the website to use the website and practice the claimed methods, which Defendant controls the use of and derives a direct benefit and profit from.

12.   Upon information and belief, Defendant has infringed and continues to infringe one or more claims, including Claim 10, of the '897 Patent by making and using Defendant's interactive website in the United States without authority. Defendant has infringed and continues to infringe the '897 Patent either directly or through the acts of inducement in violation of 35 U.S.C. § 271. Defendant has been on notice of the '897 Patent at least as early as the date it received service of this complaint.

13.   Claim 5.

A method for web browsing with a computer that comprises a display device, comprising:

tracking browsing patterns of a user based on entries received from the user at the computer over a plurality of browsing sessions;

storing a history of hyperlinks selected by the user from a particular web page presented on the display device during visitations of the user to the particular web page during the plurality of browsing sessions;

determining a plurality of hyperlinks from the stored history of hyperlinks, wherein each hyperlink in the plurality of hyperlinks corresponds to a respective web page; and

when the particular web page is revisited by the user in an other browsing session subsequent to said visitations:

presenting for the display device a window that comprises a first area and a second area;

presenting the particular web page in the first area of the window; and

presenting the plurality of hyperlinks in the second area of the window, wherein

each presented hyperlink is presented as a reduced size image associated

with said corresponding respective web page, and wherein the reduced

size images are presented in an arrangement that reflects prioritization of

the corresponding respective web pages.

██████ Macys provides a method for web browsing with a computer that consists of a display device. A user can view, browse and purchase multiple items such as kitchen items on Macy's website. As shown in the evidence, the user is browsing Air Fryers & Deep Fryers during first session i.e., at 11:06 AM.
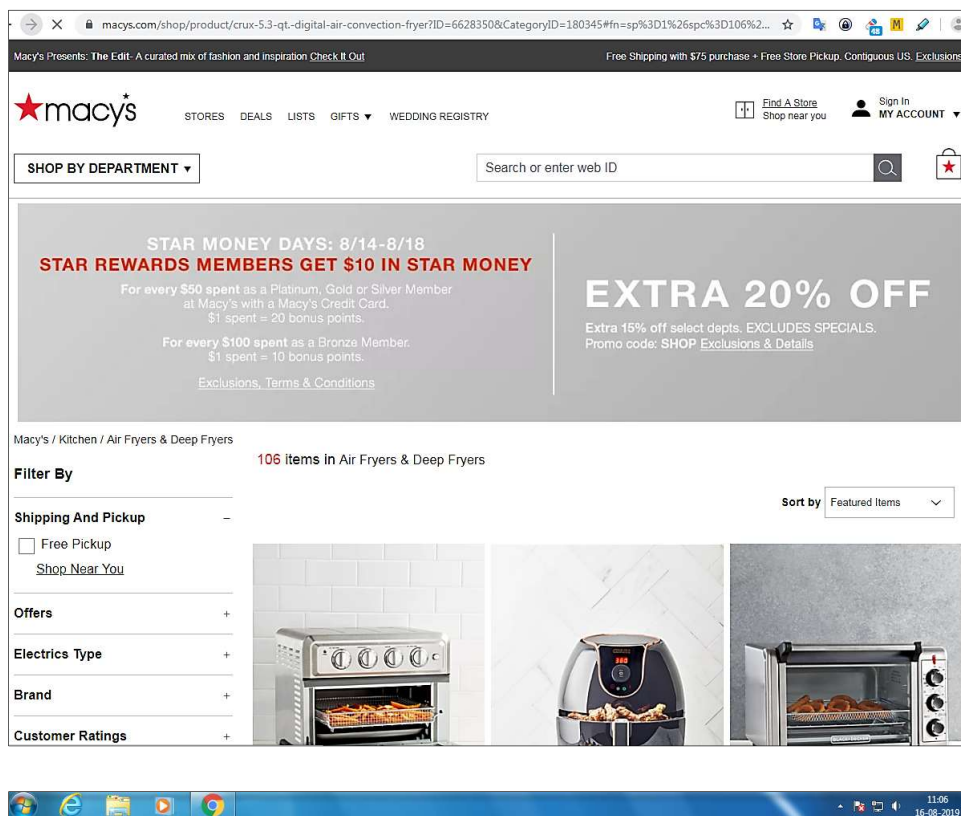
https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&cm_sp=us_hdr-_-home-_-180345_air-fryers-%26-deep-fryers_COL2

████ Macys tracks browsing patterns of the user such as which pages and items he views, items he buys from online stores etc.

Macy's and macys.com Notice of Privacy Practices

WHAT WE COLLECT & SHARE

We collect information from a variety of sources, including: information provided by you, transaction information, technology-enabled services, and information we collect about you from third party sources. The following are select examples of the types of information we may collect and share:

- **Information you provide:** (FUL, ADV, OPS, SEC)

  - We collect various information when you create a profile, place an order, create a registry or take advantage of other programs online or in store. Information we may collect includes: Name, Address (billing and shipping), Zip code, email address, Telephone number(s), Cellular phone number(s), Credit card number(s), Birth date, and Security question answers. (To express your preferences related to information you provide, go to the Manage Your Preferences section below).

- **Technology-Enabled Collection Services:** (FUL, ADV, OPS, SEC)

  - We collect data when you visit our websites, use our mobile applications, shop in our stores, or interact with our wireless services and other technologies. This information is either automatically collected or is customer initiated. (For more details, see Our Use of Information Technologies section below).

- **Transaction Information:** (FUL, ADV, OPS, SEC)

  - Transaction Information includes items purchased and date and time of your transaction, for in-store or online purchases.
  - When you make a purchase or create a gift registry, we may share information about you and your transaction with other companies necessary to process your transaction or offer you products or services that may be of interest.

https://www.customerservice-macys.com/app/answers/detail/a_id/595/~/macy%E2%80%99s-and-macys.com-notice-of-privacy-practices

███ Macys stores items the user views during his browsing sessions and shows them in 'Recently viewed' section. As shown in the evidence here, Air Fryers, the user views from the Kitchen Air Fryers page ("a particular web page"), they are added in 'Recently viewed items section', thus Macys stores "a history of hyperlinks selected by the user from a webpage".
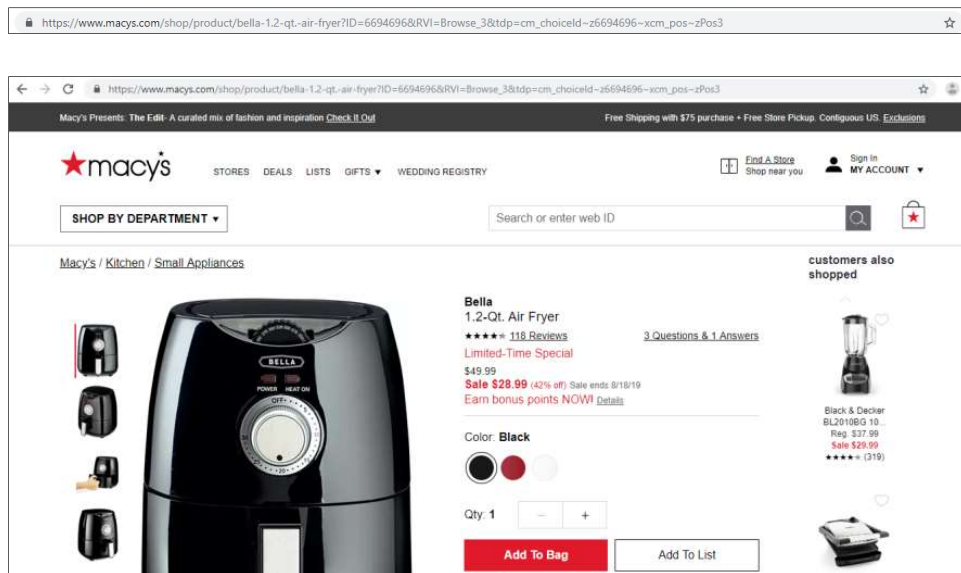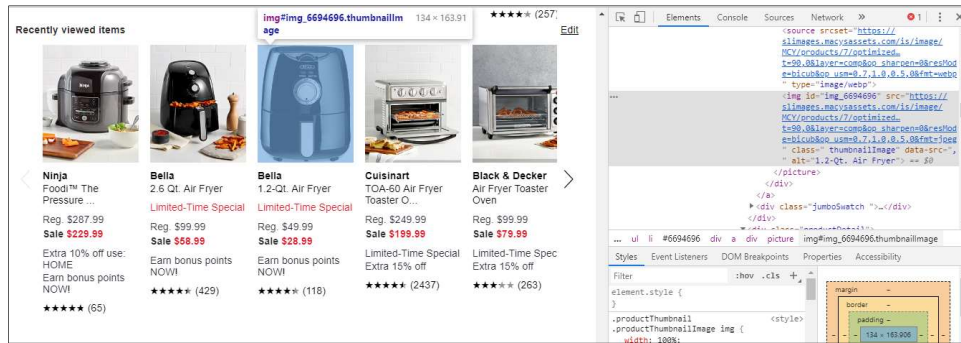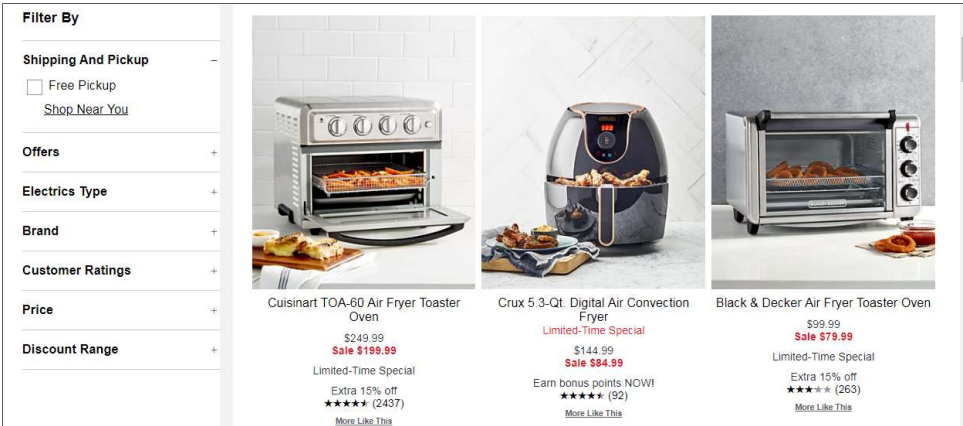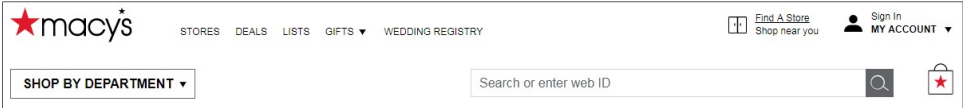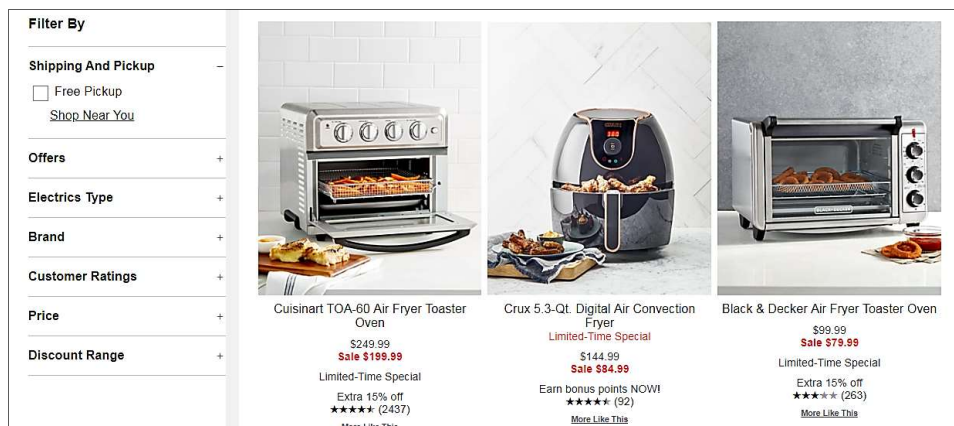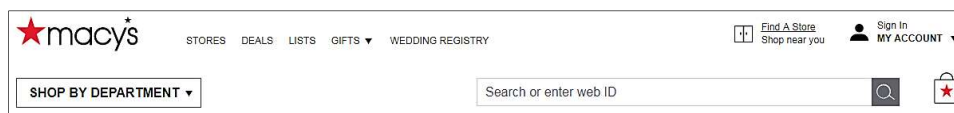

https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&cm_sp=us_hdr-_-home-_-180345_air-fryers-%26-deep-fryers_COL2
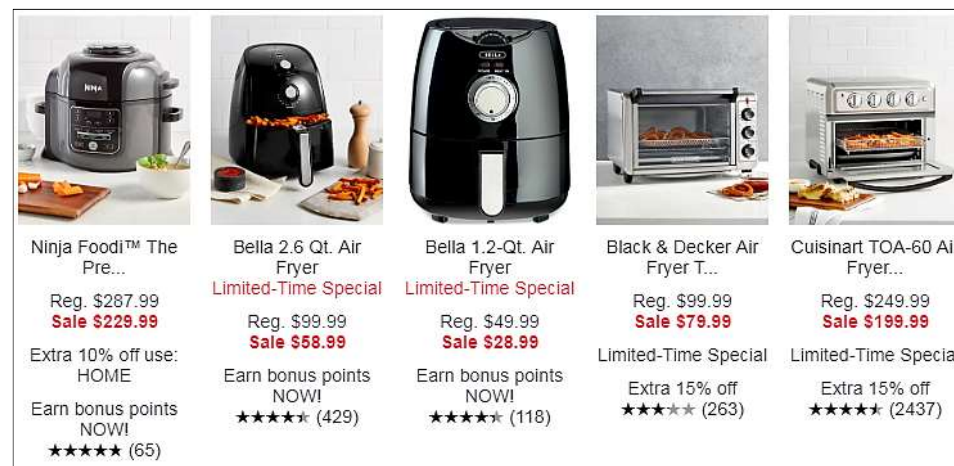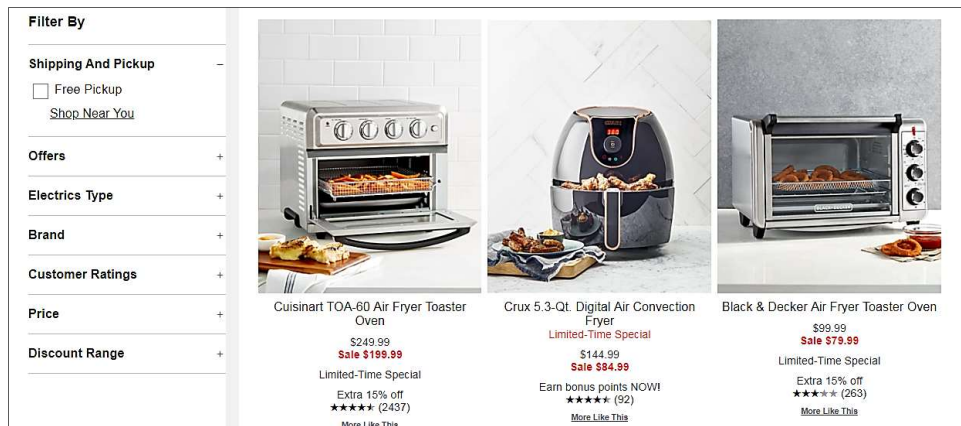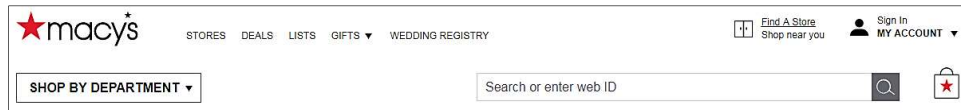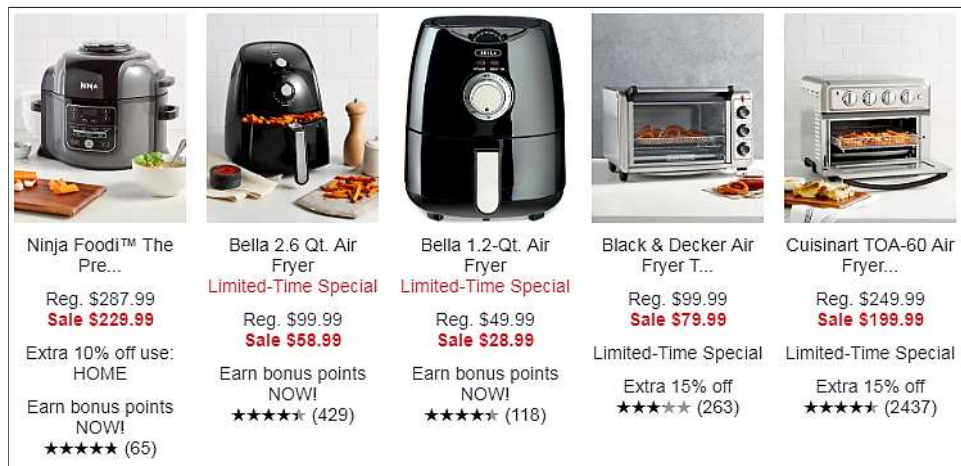
https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&cm_sp=us_hdr-_-home-_-180345_air-fryers-%26-deep-fryers_COL2

█████Macys is operable to determine "a plurality of hyperlinks" from the stored history of hyperlinks. Each hyperlink corresponds to a respective web page. As shown in the evidence, each item in 'Recently viewed' section corresponds to a hyperlink and the hyperlink corresponds to a respective webpage of the Air Fryer.

https://www.macys.com/shop/product/bella-1.2-qt.-air-fryer?ID=6694696&RVI=Browse_3&tdp=cm_choiceId~z6694696~xcm_pos~zPos3/

As shown in the evidence, when the user revisits the Kitchen Air Fryers web page at 11:56 AM, Macys website shows the Kitchen Air Fryers page in "a first area" and the Air Fryers that the user browsed in previous session (at 11:06 AM) are shown in 'Recently viewed items' section " a second area".
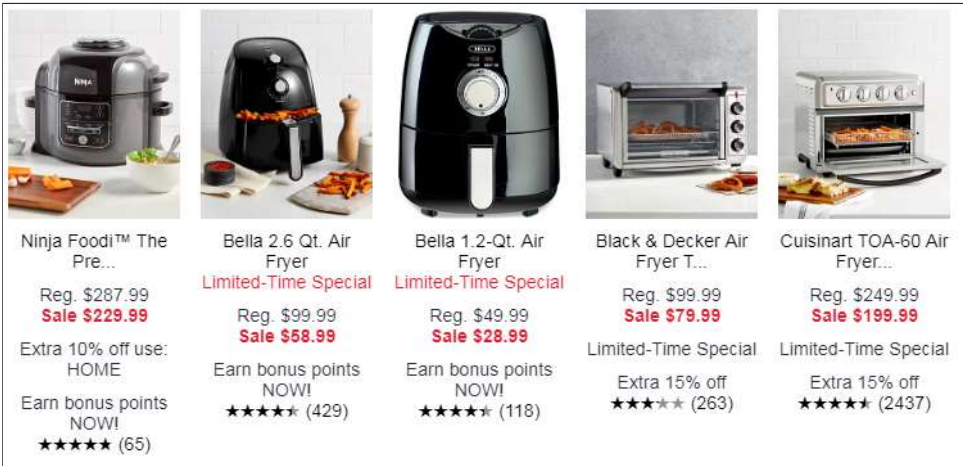
https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&cm_sp=us_hdr-_-home-_-180345_air-fryers-%26-deep-fryers_COL2

Macys website shows the Kitchen Air Fryers page in "a first area".

██████ Macys have "Recently viewed items" section referred as "second area" which provides the Air Fryers browsed by the user. Each Air Fryer in 'Recently viewed items' section corresponds to a respective hyperlink.
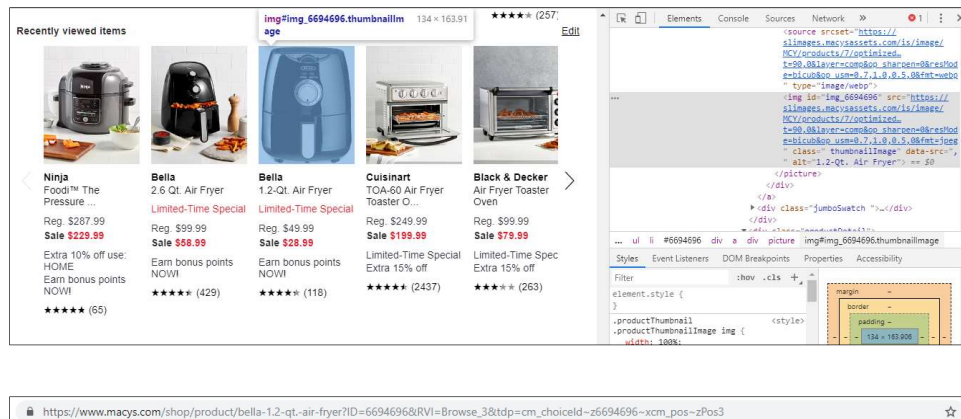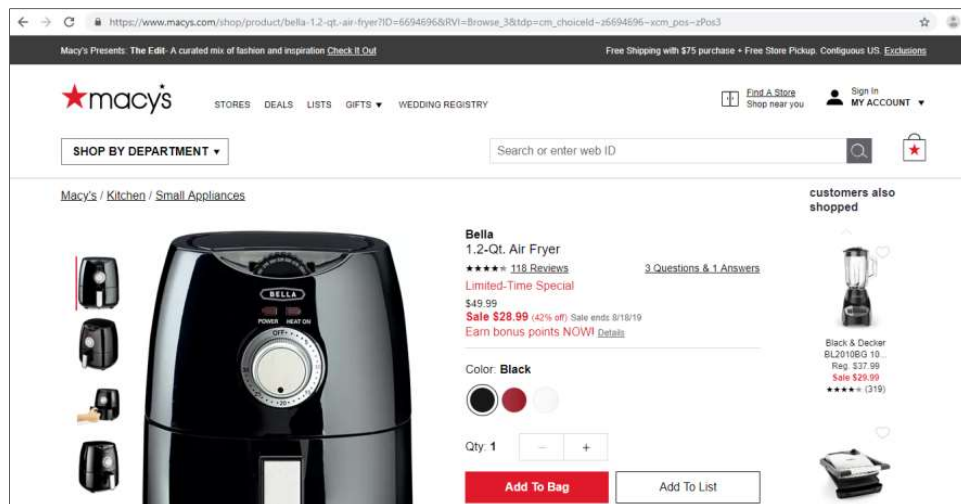
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Each Air Fryer in 'Recently viewed items' section is presented as thumbnail ("a reduced size image") which corresponds to a respective hyperlink.

https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&cm_sp=us_hdr-_-home-_-180345_air-fryers-%26-deep-fryers_COL2

https://www.macys.com/shop/product/bella-1.2-qt.-air-fryer?ID=6694696&RVI=Browse_3&tdp=cm_choiceId~z6694696~xcm_pos~zPos3/

The Air Fryer in 'Recently viewed items' section are presented according to time since last viewed, with the most recent viewed, given higher priority and kept at first location.

https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&cm_sp=us_hdr-_-home-_-180345_air-fryers-%26-deep-fryers_COL2

      As the new Air Fryer is viewed, the previously viewed air fryer is shifted to the second position and the most recently viewed Air Fryer takes the first position.

https://www.macys.com/shop/kitchen/air-fryers-deep-fryers?id=180345&edge=hybrid/
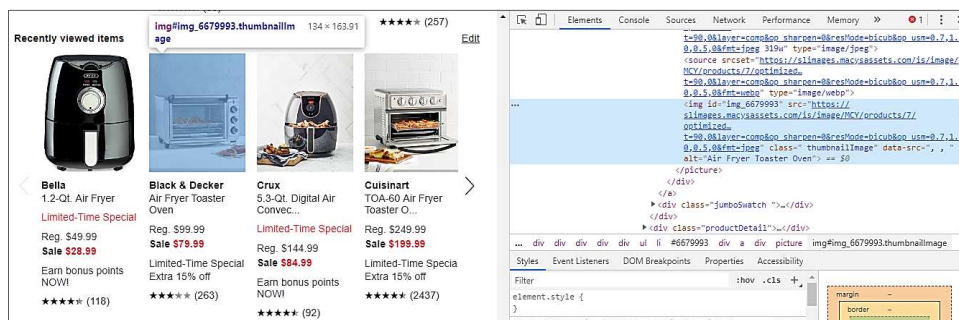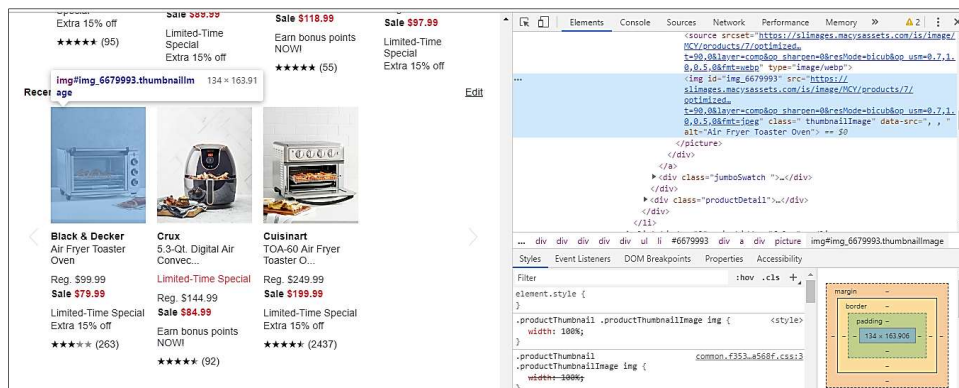
Browse3D has been damaged by Defendant's infringing activities.

WILFULLNESS

On September 6, 2019, Browse3D provided Defendant notice of the '897 with a claim chart illustrating Defendant's infringement of the '897 Patent.

Upon information and belief, Defendant had actual knowledge of the '897 Patent at least as of its receipt of Browse3D's notice letter of September 6, 2019 and accompanying claim chart.

Upon information and belief, upon gaining knowledge of the '897 Patent, it was, or became, apparent to Defendant that it infringed the '897 Patent. Notwithstanding its knowledge (or willful blindness thereto), Defendant continues to infringe the '897 Patent.

Defendant has willfully infringed and continues to willfully infringe the '897 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court enter judgment against

Defendant:

1.   declaring that the Defendant has infringed the '897 Patent;

2.   awarding Plaintiff its damages suffered as a result of Defendant's infringement of

the '897 Patent;

3.   awarding Plaintiff its costs, attorneys' fees, expenses, and interest;

4.   awarding Plaintiff additional damages for Defendant's willful infringement of the

'897 Patent; and

4.   granting Plaintiff such further relief as the Court finds appropriate.

JURY DEMAND

Plaintiff demands trial by jury, Under Fed. R. Civ. P. 38.

Dated: January 24, 2020   Respectfully submitted,

/s/ Raymond W. Mort, III
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**ATTORNEYS FOR PLAINTIFF
BROWSE3D LLC**